

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: GENERIC PHARMACEUTICALS  
PRICING ANTITRUST LITIGATION**

**MDL 2724  
16-MD-2724**

**THIS DOCUMENT RELATES TO:**

**HON. CYNTHIA M. RUFÉ**

***ALL ACTIONS***

**ORDER**

In addition to extensive briefing related to Special Master David H. Marion's Third Report and Recommendation Relating to Bellwether Selection [MDL Doc. No. 1244], the Court has received the three attached letters from counsel. To ensure that all counsel have an opportunity to be heard, it is hereby **ORDERED** this 27th day of May 2020, that counsel may file on the Master Docket a letter, not to exceed two pages, stating their position with regard to the potential effect on bellwether selection of the filing by the Plaintiff States of the new and final complaint in June 2020. Any letters shall be filed no later than **June 1, 2020** at **5:00 p.m. (ET)**.

It is so **ORDERED**.

**BY THE COURT:**

**/s/ Cynthia M. Rufe**

**CYNTHIA M. RUFÉ, J.**

**KASOWITZ BENSON TORRES LLP**

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May 22, 2020

**VIA EMAIL**

The Honorable Cynthia M. Rufe  
United States District Court  
for the Eastern District of Pennsylvania  
James A. Byrne U.S. Courthouse  
601 Market Street, Suite 12614  
Philadelphia, PA 19106-1797

Re: *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*  
U.S. Dist. Ct. Eastern Dist. of Pennsylvania, No. 16-MD-2724-CMR  
Request for Oral Argument on Special Master David Marion's Third Report and  
Recommendation relating to Bellwether Selection ("R&R") (ECF No. 1244)

Dear Judge Rufe:

We write on behalf of the undersigned Defendants to request the Court reserve judgment on bellwether selections until the States file their third and final complaint and for brief oral argument on the vitally important case-management issues presented by the disputes over Special Master David Marion's Third Report and Recommendation relating to Bellwether Selection ("R&R") (ECF No. 1244). The selection of matters to be prioritized for adjudication presents some of the most significant case-management issues in this MDL. Although the Court advised Liaison Counsel during the recent Leadership conference that it is inclined to adopt the R&R, we respectfully urge the Court to entertain brief oral argument on this critical case-management decision.

Additionally, as the Court properly recognized in the March 12, 2020, status conference, the States have not yet filed their final complaint and the selection of a bellwether could be impacted by that filing as well as what private plaintiffs may elect to do regarding their own additional complaints. *See* Mar. 12, 2020 Tr. at 17 (noting that the Court is "loathe" to select a bellwether case or cases "until I know how it's going to fairly represent most of the issues or a core of the issues in this case"). We understand from the March 12 hearing that the final complaint from the States would be filed this month. *See id.* at 18:5-9 (Mr. Nielsen: "We have

**KASOWITZ BENSON TORRES LLP**

May 22, 2020

Page 2

understood Your Honor to say she wanted new complaints filed by June and we certainly will plan to file before June.”). Given the States’ intent to file their forthcoming complaint soon, undersigned Defendants respectfully submit that the parties and the Court will soon have a more comprehensive understanding of how the various actions relate to one another and what action or actions are most representative of issues important to the advancement of the MDL.

Given the overall importance of the issues, we respectfully request that the Court hold oral argument on the R&R at a time reasonably following the filing of the States’ forthcoming complaint.

Respectfully,

/s/ Sheron Korpus  
Sheron Korpus

On behalf of:

Actavis Pharma, Inc.

Actavis Holdco U.S., Inc.

Actavis Elizabeth, LLC

And also joined by the undersigned Defendants:

Glenmark Pharmaceuticals Inc., USA

Greenstone LLC

Lannett Company, Inc.

Mylan Inc.

Mylan Pharmaceuticals Inc.

Mylan N.V.

Oceanside Pharmaceuticals, Inc.

Par Pharmaceutical, Inc.

Pfizer Inc.

Sun Pharmaceutical Industries, Inc.

Taro Pharmaceuticals U.S.A., Inc.

Teva Pharmaceuticals USA, Inc.

UDL Laboratories, Inc.

Upsher-Smith Laboratories, LLC

Valeant Pharmaceuticals North America LLC n/k/a Bausch Health US, LLC

Valeant Pharmaceuticals International n/k/a Bausch Health Americas, Inc.

Zydus Pharmaceuticals (USA), Inc.

cc: All Liaison Counsel and Special Masters (via email)



OFFICE OF THE ATTORNEY GENERAL  
CONNECTICUT

May 26, 2020

**VIA ELECTRONIC MAIL**

The Honorable Cynthia M. Rufe  
United States District Court  
for the Eastern District of Pennsylvania  
James A. Byrne U.S. Courthouse  
601 Market Street, Suite 12614  
Philadelphia, PA 19106-1797

**Re: *In re Generic Pharmaceuticals Pricing Antitrust Litig.*, No. 16-md-2724 (E.D. Pa.)**

Dear Judge Rufe:

I write in response to certain Defendants' May 22, 2020 letter request that the Court delay its decision on bellwether selection until after the States file their next Complaint. There is no reason to delay the bellwether selection, or for additional oral argument. As discussed during the recent leadership conference, the States' next Complaint will be similar in size and scope to the States' Teva Complaint, filed in May 2019, which Special Master Marion has already recommended as one of the bellwethers. No one has suggested or will suggest that the States' third Complaint be the bellwether. The filing of that new Complaint will only further demonstrate that the States' Teva Complaint is representative of other cases in the MDL and is an appropriate bellwether selection. And, of course, the States' new Complaint will change nothing with respect to the selection of the Class Plaintiffs' single-drug bellwethers. There is no need for any further delay.

Respectfully submitted,

/s/ W. Joseph Nielsen

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*Liaison counsel for the States*

cc: Special Master David Marion  
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Driving progress  
through partnership

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May 27, 2020

The Honorable Cynthia M. Rufe  
United States District Court  
Eastern District of Pennsylvania  
James A. Byrne U.S. Courthouse  
601 Market Street, 12th Floor  
Philadelphia, PA 19106-1979

**RE: MDL 2724: In Re: Generic Pharmaceuticals Pricing Antitrust Litigation:  
Heritage Pharmaceuticals, Inc.**

Dear Judge Rufe:

I am writing on behalf of Heritage Pharmaceuticals, Inc. (“Heritage”) in connection with the issues raised by certain Defendants in their May 22, 2020 letter sent to the Court regarding Special Master Marion’s Third Report and Recommendation relating to Bellwether Selection (the “Report and Recommendation”). Heritage supports the positions and points reflected in that letter, including with respect to reserving judgement on those issues until the States file their third complaint, and to request oral argument..

Furthermore, as reflected in its objections to that Report and Recommendation (*see* ECF Nos. 1300 (Mar. 12, 2020) and 1358 (Apr. 23, 2020)), Heritage will be uniquely affected by the Court’s decision on the bellwether proposal selection, and has information available only to it that bears directly upon the issues addressed in the Report and Recommendation and upon the critical question of whether to adopt it. Heritage, therefore, respectfully asks the Court to grant Defendants requests, and to allow Heritage to briefly address those issues and information during oral argument should it be granted.

Thank you for your consideration of this request.

Sincerely,

/s/ Edward B. Schwartz

Edward B. Schwartz

Reed Smith LLP

*Counsel for Heritage Pharmaceuticals, Inc.*

cc: All Liaison Counsel and Special Masters (via email)